

§ 30.311 What action will the FAB take if the claimant does not file objections to the recommended decision?

(a) If no objections to specific findings of fact or conclusions of law are filed within the period of time allotted in § 30.310(b), the FAB will issue a decision affirming the recommended decision as provided in § 30.316, even if the claimant requests a hearing.

(b) If the recommended decision accepts all or part of a claim for compensation, the FAB may issue a decision at any time after receiving written notice from the claimant that he or she waives any objection to all or part of the recommended decision.

§ 30.312 What action will the FAB take if the claimant files objections but does not request a hearing?

If the claimant specifies objections to the recommended decision within the appropriate time period but does not request a hearing, the FAB will consider such objections by means of a review of the written record. If the claimant's objections only refer to part of the recommended decision, the FAB may issue a decision affirming the remaining part of the recommended decision without first reviewing the written record (see § 30.316).

§ 30.313 How is a review of the written record conducted?

(a) The FAB reviewer will review the record forwarded by the district office and any additional evidence and/or argument submitted by the claimant. The reviewer may also conduct whatever investigation is deemed necessary.

(b) The claimant should submit, with his or her statement specifying the findings of fact and/or conclusions of law contained in the district office's recommended decision to which he or she objects, all evidence or argument that he or she wants to present to the reviewer. However, evidence or argument may be submitted at any time up to the date specified by the reviewer for the submission of such evidence or argument.

§ 30.314 How is a hearing conducted?

(a) The FAB reviewer retains complete discretion to set the time and place of the hearing, including the

amount of time allotted for the hearing, considering the issues to be resolved. At the discretion of the reviewer, the hearing may be conducted by telephone or teleconference. In addition to the evidence of record, the claimant may submit new evidence to the reviewer.

(b) Unless otherwise directed in writing by the claimant, the FAB reviewer will mail a notice of the time and place of the hearing to the claimant and any representative at least 30 days before the scheduled date. This notice will also include a listing of the issues to be addressed during the hearing. If the claimant only objects to a part of the recommended decision, the FAB reviewer may issue a decision affirming the remaining part of the recommended decision without first holding a hearing (see § 30.316).

(c) The hearing is an informal process, and the reviewer is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. The reviewer may conduct the hearing in such manner as to best ascertain the rights of the claimant. During the hearing process, the claimant may state his or her arguments and present new written evidence and/or testimony in support of the claim.

(d) Testimony at hearings is recorded, then transcribed and placed in the record. Oral testimony shall be made under oath.

(e) The FAB reviewer will furnish a transcript of the hearing to the claimant, who has 20 days from the date it is sent to submit any comments to the reviewer.

(f) The claimant will have 30 days after the hearing is held to submit additional evidence or argument, unless the reviewer, in his or her sole discretion, grants an extension. Only one such extension may be granted.

(g) The reviewer determines the conduct of the hearing and may terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative at or near the place of the oral presentation.